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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,601	09/29/2003	Yousuke Yoneda	1419.1061C	8535

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER

LOWEN, ALYSSA

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 10/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,601

Applicant(s)

YONEDA, YOUSUKE

Examiner

Alyssa M. Lowen

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-8, 16, 21 and 23-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-8, 16, 21 and 23-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 7/20/06 & 9/29/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 7/20/06 is in compliance with the provisions of 37 CFR 1.97 and 37 CFR 1.98. Accordingly, the information disclosure statement is being considered by the examiner.
2. The information disclosure statement filed 9/29/03 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. In this case, no copies of the cited foreign patent documents were found in the parent application (10/056110).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 1-3, 6, 16, 21, 23-24, 27-30 and 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minato (1-172894) and Balthazor (3083499). Minato discloses a suspension for a running toy (page 1 paragraph 2) having first and second turning members (23,24), which turn first and second wheels (27,28) about first and second shafts (23b, 24b) movably received by a chassis (20) of the toy (Fig. 3). A

member (34) connects the first and second turning members and forms a turning device (page 9 paragraph 2). A leaf spring (36) located on the chassis contacts upper portions of the first and second shafts (Fig. 2) subjecting them to a downward biasing force caused by elastically deforming the leaf spring (page 11 second paragraph). The suspension system is for a remote control toy car (page 1 paragraph 2). The leaf spring further comprises a projecting portion (37) at which the leaf spring is held on the chassis (Fig. 2). The suspension system allows either wheel to move in a vertical direction while being biased by the biasing member or leaf spring (Fig. 4b). Minato discloses the basic inventive concept, substantially as claimed, with the exception of the chassis having a recess portion in which the biasing member or leaf spring is held. Balthazor discloses a suspension for a toy vehicle having two spaced wheels (18) and a turnable shaft (16) operatively connected to the wheels and a detachable biasing member (Fig. 5) in the form of a leaf spring (34) that contacts the shaft (Fig. 2) and exerts a downward force on the wheels (column 2 lines 59-65). The biasing member is connected at a middle portion thereof to the chassis (Fig. 2) by means of a projecting portion (48) that is held within a recess portion (46) of the chassis (Fig. 4) such that the projecting portion is sandwiched between the recess portion and the shaft (Fig. 2). The system allows either wheel to move in a vertical direction while being biased by the biasing member (column 2 lines 65-69). It would have been obvious to one of ordinary skill in the art from the teaching of Balthazor to modify the device of Minato to include a recess in the chassis to hold the leaf spring as opposed to loop projections in order to simply and

inexpensively connect a leaf spring to a toy vehicle such that it can be easily removed from the assembly without the use of tools (column 1 lines 9-47).

5. Claims 7, 25, 31 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minato and Balthazor. The references disclose the basic inventive concept substantially as claimed with the exception of the leaf spring and shaft being formed as a unitary member. It has been held that a one-piece construction instead of separate elements would be merely a matter of obvious engineering choice. See In re Fridolph 50 CCPA 745, 89 F.2d 509, 135 USPQ 319.

6. Claims 8, 26, 32 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minato, Balthazor and Perryman (GB 1095490). Minato and Balthazor disclose the basic inventive concept substantially as claimed with the exception of the leaf spring being made of metal or plastic. Perryman discloses a leaf spring used in the suspension system of a toy car made of plastic or steel (page 2 lines 122-129). It would have been obvious to one of ordinary skill in the art at the time of invention from the teaching of Perryman to use metal or plastic in a leaf spring since it is elastically deformable and usable as a biasing member. Furthermore, the mere selection of known materials such as metal and plastic on the basis of suitability for the intended use would be entirely obvious. See in re Leshin, 125 USPQ 416 (CCPA 1960). Therefore, it would have been obvious to one of ordinary skill in the art to provide Minato and Balthazor with metal or plastic in order to use known materials suitable for the intended use.

Response to Arguments

7. Applicant's arguments with respect to claims 1-3, 6-8, 16 and 21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Lowen whose telephone number is 571-272-2684. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AML


EUGENE KIM
SUPERVISORY PATENT EXAMINER